REMARKS

Reconsideration is respectfully requested. Claims 1-31 were present in the application. Claims 1-4, 11 and 19 are amended. New claims 32-34 are added.

Claims 1-31 are rejected under 35 U.S.C. §102(b) as allegedly being unpatentable over the data and brochure sheets for the Quest Technologies Indoor Air Quality Monitors models aQ-5000 and aq-5001. Applicants respectfully traverse.

Quest shows that the device measures relative humidity. It does not teach nor does it suggest measuring moisture content. Relative humidity is not moisture content. Applicants' claims are to be interpreted in light of the specification. Referring to the specification, page 3, line 32 through page 4 line 4, it is noted that initial readings of moisture content as well as the relative humidity and temperature are taken throughout the interior of the structure under test. Relative humidity and temperature are made to determine grains per pound (specific humidity).

Referring to page 4, lines 30-35, it is noted that a report comprises details of "a number of things, including:

Relative Humidity;

Temperature;

Grains Per Pound (specific humidity);

Moisture content measurements taken." This further

illustrates that relative humidity is not the same thing as moisture content measurements.

Referring to the Quest data and brochure sheets, nowhere is it stated that the instrument measures moisture content. It measures relative humidity. It measures air quality, noting various gases that are detected. (See "Quick Reference Features Chart" on page 2 of the brochure.)

Referring to the "Specifications" page, note that the relative humidity measurement portion states "Response Time: 50 seconds (with minimum air flow of 1 ml/hr through wand)". This points out further that a flow of air through the sensor is required, and that what is measured is the relative humidity of the air. Nothing in the specifications makes any mention of measuring moisture content.

Applicants believe this difference is crucial. The relative humidity inside the building does not give the moisture content of the building materials, of the wall cavities or the like. IT is these materials, wall cavities or the like that have become big issues in recent years. If this "hidden" moisture content of these is too high, structural damage and mold can result. Significant problems can thereby arise (health problems for occupants of the structures, liability for remediation costs, lost value of property claims, etc.).

It is believed that the claims as originally presented clearly illustrate that it is not relative humidity that

applicants are measuring. Amendments are made herein however to further clarify these points, that it is the moisture content of the structural components that applicants are measuring and generating a certificate based thereon. This is apparent from review of applicants' specification. For example, page 1, lines 18-22: "Thus, mold can grow in construction material if sufficient moisture is present in the structure components. Apart from mold, moisture damage to the structure or components thereof may result from moisture." Further, applicants note example locations of where the moisture content measurements are made (page 4, lines 10-19:

> In making the measurements, test sites are selected to be places where moisture might typically exist throughout the structure, including but not limited to openings such as window frames, door frames, electrical outlets and the like. In buildings where a vapor barrier is present, any location where the vapor barrier might have been cut is measured. Further, measurements are taken along the floor, floor boards and baseboards, walls and ceiling. Typically a measurement every 1 to 2 feet would be sufficient.

This further illustrates that it is not the relative humidity of air that is applicants' moisture content measurement as recited in the claims (especially in view of applicants' further noting that relative humidity measurements may also be taken in an embodiment and provided in a report, but the claims do not

require or recite relative humidity measurements).

In the office action, it is stated (page 2" that Quest document describes a method and system for certifying at least a portion of an interior of a structure relative to moisture content. Applicant respectfully traverses. As noted above, there is no measurement of moisture content. The inspection report referred to by the Examiner, shows relative humidity ("R.H."). It does not show any moisture content measurements.

Further, there is no analysis shown by the report that would warrant being interpreted to be a certificate. There is nothing shown that says "CO2 levels certified to be [insert some standard or criterion here]". Listing a report of measured values does not comprises providing a certification or certificate of values. Taking the Examiner's interpretation for the purposes of argument here, Quest does not show whether a particular structure passed or failed the test based on given parameters. Accordingly, the document cannot anticipate the claims.

The Examiner states that utilizing a certificate in lieu of the report does not provide any benefit nor produce any unexpected result over the prior art. Applicants respectfully disagree. A report of measurements could be totally meaningless to a purchaser of a building, for example. If the purchaser does not have the scientific knowledge necessary to determine what a report of measurements means (does the average home purchaser know that 25% moisture in the interior walls is bad or good? -

no!) the report is meaningless paper. Applicants' certification provide a valuable improvement over a mere report in that, for example, those lacking the knowledge or expertise to interpret a report of many readings, can still know that the structure has been certified to have been measured to have a desirable

With respect to the specific rejection of claims 10, 13, 25 and 29-31, since it is noted that these are not specifically disclosed by Quest, then the document cannot support a rejection under 35 U.S.C. §102. The rejection of those claims reads as if the rejection were made under §103, but no §103 rejection has been given. Still further, even if the Quest document were combined with the University of Minnesota article mentioned on page 4 of the office action, applicants' claimed invention would not result since, among other reasons, as noted above, Quest is not concerned with and does not appreciate the concept of measuring moisture content. Relative humidity measurements are not moisture content measurements of or in structural components.

The Examiner states that the report of the Quest device allows a snap shot survey and would enable one of ordinary skill in the art to "easily assess the area under test and make a determination whether or not the area or areas under test are compliant or non-compliant". Quest does not support this assertion. Quest is silent as to any desirability of such a determination. Absent such determination being set forth in Quest, it cannot support a §102 rejection.

In the prior response to office action, applicants submitted 3 letters, from Boardwalk Homes, DeCal Custom Homes and from Olsen Homes, Inc, to show the advantage and perceived usefulness provided by applicants' processes. Applicants' invention enables these home builders to build and sell homes with the added assurances that there is a lower likelihood of mold, mildew or moisture damage claims arising, and if such claims do arise, the builders can show that the homes were certified during construction to show compliance with moisture standards, and that the moisture issues thereby likely arose after construction. If, instead, applicants merely gave the builders a report of measured values, with no certification, the advantage to the builders that applicants provide, would be lost.

Please note again in the Boardwalk Homes, Inc. letter wherein it is stated that having applicants' Dry Score Certificate of Moisture Content brings value to their effort in selling a home. A mere report of measurements would not provide such a perceived value.

Also, as noted before the letter previously submitted, from Olsen Homes, states that being able to certify the moisture content is of great benefit. The homebuilders can use the certification information as a benefit to the consumer, as moisture, mold and mildew issues in home construction are a great concern in the industry.

As stated before, these letters are evidence of the non-obviousness in that they recognize the benefits of using applicants' methods. Further, the builders note that this provides them with advantages and an improved product to sell. If the invention had been obvious, these builders would have been performing the inventive methods previously. However, they were not and did not consider such a process and it is applicants that have discovered and implemented the claimed processes and methods, to the improvement and advantage of the home building industry. We repeat these comments here, because while the rejection is stated to be under §102 anticipation, the rejection reads as if it was a §103 obviousness rejection.

Applicants respectfully submit that the claims are neither anticipated by Quest and/or the Univ. Minnesota article, nor are they obvious in view of Quest or the Univ. Minnesota article, whether considered alone or whether combined.

Further, the inventor Andrew R. Weisenberger, notes the following:

To the best of his knowledge, there are no other companies or individuals that test and certify the moisture content of structures.

Andrew R. Weisenberger has 11 years of experience providing water and fire restoration and mold remediation services to home owners and businesses. He owned a local (Portland, Oregon area)

franchise of a national company that is recognized as the leader in the water and fire restoration and mold remediation industry.

Andrew R. Weisenberger has the following industry training relevant to this application:

1. IICRC (Institute of Inspection, Cleaning and Restoration Certification) Fire Damage Training

2. Mold Remediation Training

3. Structural Failure Training

4. IICRC Water Damage Training

5. Franchise Restoration Management Training

Home Certified, Inc. is practicing the invention and currently has a customer base of approximately 60 builders in Oregon, SW Washington and Reno NV. Home Certified, Inc. practices the invention as a service for pay. The Oregon area of operation includes the region of Eugene to Portland, and central Oregon to the coast

Home Certified, Inc. plans on expanding offering the services of practicing the invention to the greater Seattle market in the fall of 2005.

This above information is submitted to further support the patentability and non-obviousness of the claimed invention.

In light of the above noted amendments and remarks, this application is believed in condition for allowance and notice thereof is respectfully solicited. The Examiner is asked to

contact applicant's attorney at 503-224-0115 if there are any questions.

Respectfully submitted,

James H. Walters, Reg. No. 35,731

Customer number 802
DELLETT AND WALTERS
P.O. Box 2786
Portland, Oregon 97208-2786 US
(503) 224-0115
DOCKET: W-333

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I hereby certify that this correspondence is being deposited as first class mail with the United States Postal Service in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this August 10, 2005.